UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/52/652
25 November 1997
ENGLISH
ORIGINAL: ARABIC AND ENGLISH

Fifty-second session
Agenda item 151

REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to Assembly resolution 51/209 of 17 December 1996.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 5th to 8th and 34th meetings, from 8 to 14 October and on 21 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.5-8 and 34).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[1]

[1] Official Records of the General Assembly, Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr.1).

(b) Report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions (A/52/308);

(c) Report of the Secretary-General on the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council (A/52/317 and Corr.1);

(d) Letter dated 19 June 1997 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General (A/52/189);

(e) Letter dated 1 October 1997 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the Meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries to the fifty-second session of the General Assembly, held in New York on 25 September 1997.

5. At its 11th meeting, on 21 October, the Committee decided to establish an informal Working Group on the question of the implementation of Charter provisions relating to third States affected by Security Council sanctions and elected Mr. Craig J. Daniell (South Africa), Vice-Chairman of the Sixth Committee, as Chairmar of the Working Group. The Working Group held five meetings between 24 October and 18 November.

6. At the 34th meeting, on 21 November, the Chairman of the Working Group presented an oral report on the work of the Working Group (see A/C.6/52/SR.34).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/52/L.9 and Corr.1

7. At the 34th meeting, on 21 November, the representative of Egypt, on behalf of the Czech Republic, Egypt, Portugal, Romania, Slovakia, Tunisia, Uruguay and Venezuela, later joined by Brazil, Finland, Indonesia, Namibia, the Philippines and Ukraine, introduced a draft resolution entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/52/L.9 and Corr.1).

8. The Secretary of the Committee made a statement on the implementation of operative paragraph 5 of the draft resolution (see A/C.6/52/SR.34).

9. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.9 and Corr.1 without a vote (see para. 16, draft resolution I).

B. Draft resolution A/C.6/52/L.14

10. At the 34th meeting, on 21 November, the Chairman of the Working Group introduced a draft resolution entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by

the application of sanctions" (A/C.6/52/L.14), which had been proposed by the Chairman of the Committee.

11. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.14 without a vote (see para. 16, draft resolution II).

12. The representative of Lebanon made a statement in explanation of position (see A/C.6/52/SR.34).

C. Draft resolution A/C.6/52/L.8

13. At its 34th meeting, on 21 November, the Committee had before it a draft resolution entitled "Amendment to rule 103 of the rules of procedure of the General Assembly" (A/C.6/52/L.8), which was recommended by the Special Committee.

14. At the same meeting, the Committee adopted draft resolution A/C.6/52/L.8 without a vote (see para. 16, draft resolution III).

15. The representatives of Israel and Lebanon made statements in explanation of position (see A/C.6/52/SR.34).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

16. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council,[2]

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also its resolutions 51/241 of 31 July 1997 on the strengthening of the United Nations system and 51/242 of 15 September 1997 entitled "Supplement to an Agenda for Peace", by which it adopted the texts on coordination and the question of sanctions imposed by the United Nations which are annexed to that resolution,

Recalling further that the International Court of Justice is the principal judicial organ of the United Nations, and reaffirming its authority and independence,

Noting with satisfaction the increase in the volume of cases before the Court,

Considering the desirability of finding practical ways and means of strengthening the Court,

Taking note of the report of the Secretary-General on the Repertory of Practice of United Nations Organs and the Repertoire of the Practice of the Security Council,[3]

Recalling its resolution 51/209 of 17 December 1996,

Having considered the report of the Special Committee on the work of its session held in 1997,[4]

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[4]

2. Decides that the Special Committee will hold its next session from 26 January to 6 February 1998;

3. Requests the Special Committee, at its session in 1998, in accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995:

(a) To continue its consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to

---

[2] Official Records of the General Assembly, Fifty-first Session, Supplement No. 47 (A/51/47).

[3] A/52/317 and Corr.1.

[4] Official Records of the General Assembly, Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr. 1).

consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 1998, including the revised proposal on the strengthening of the role of the United Nations in the maintenance of international peace and security,[5] the revised working paper on the strengthening of the role of the Organization and enhancing its effectiveness,[6] the revised working paper entitled "Some ideas on the basic conditions and criteria for imposing and implementing sanctions and other enforcement measures"[7] and the working paper on the draft declaration on the basic principles and criteria for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts;[8]

(b) To continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration the reports of the Secretary-General,[9] the proposals submitted on this subject, the debate on this question which was held in the Sixth Committee at the fifty-second session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, and also the implementation of the provisions of General Assembly resolutions 50/51 of 11 December 1995, 51/208 of 17 December 1996 and 52/... of ... December 1997;[10]

(c) To continue its work on the question of the peaceful settlement of disputes between States and, in this context, to continue its consideration of proposals relating to the peaceful settlement of disputes between States, including the proposal on the establishment of a dispute settlement service offering or responding with its services early in disputes and those proposals relating to the enhancement of the role of the International Court of Justice;

(d) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General submitted in accordance with resolution 50/55,[11] the report of the Secretary-General entitled "Renewing the

---

[5] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33), para. 56.

[6] Ibid., Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr. 1), para. 59.

[7] Ibid., para. 29.

[8] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33), para. 128.

[9] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993), A/49/356, A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995), A/50/423, A/50/361, A/51/317 and A/52/308.

[10] Draft resolution II below.

[11] A/50/1011.

United Nations: a programme for reform"[12] and the views expressed by States on this subject during the fifty-second session of the General Assembly;

4. Invites Member States, the States parties to the Statute of the International Court of Justice and the International Court of Justice if it so desires, to present, before the fifty-third session of the General Assembly, their comments and observations on the consequences that the increase in the volume of cases before the Court has on its operation, on the understanding that whatever action may be taken as a result of this invitation will have no implications for any changes in the Charter of the United Nations or the Statute of the International Court of Justice;

5. Requests the Secretary-General, taking into account the views expressed and the practical suggestions made during the debate held within the framework of the Sixth Committee, to make every effort to implement in a timely manner the steps proposed in paragraph 59 of his report[3] regarding the preparation and publication of the supplements to the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs with a view to updating them and to submit a progress report on the matter to the General Assembly at its fifty-third session;

6. Invites the Special Committee at its session in 1998 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations, to discuss how to offer its assistance to the working groups of the General Assembly in this field and, in this regard, to consider ways and means of improving coordination between the Special Committee and other working groups dealing with the reform of the Organization, including the role of the Chairperson of the Special Committee for this purpose;

7. Requests the Special Committee to submit a report on its work to the General Assembly at the fifty-third session;

8. Decides to include in the provisional agenda of its fifty-third session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

DRAFT RESOLUTION II

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned about the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of

---

[12] A/51/950 and Add.1-6.

Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution of those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling:

(a) The report of the Secretary-General entitled "An Agenda for Peace",[13] in particular paragraph 41 thereof;

(b) Its resolution 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", its resolution 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof entitled "Special economic problems arising from the implementation of preventive or enforcement measures", its resolution 51/242 of 15 September 1997, entitled "Supplement to an Agenda for Peace", in particular annex II thereof, entitled "Question of sanctions imposed by the United Nations";

(c) The position paper of the Secretary-General entitled "Supplement to an Agenda for Peace";[14]

(d) The statement by the President of the Security Council of 22 February 1995;[15]

(e) The report of the Secretary-General[16] prepared pursuant to the note by the President of the Security Council[17] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter;

---

[13] A/47/277-S/24111 (see Official Records of the Security Council, Forty-seventh Year, Supplement for April, May and June 1992).

[14] A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995).

[15] S/PRST/1995/9; see Official Records of the Security Council, Fiftieth Year, Resolutions and Decisions of the Security Council, 1995.

[16] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993).

[17] See Official Records of the Security Council, Forty-seventh Year, Supplement for October, November and December 1992, document S/25036.

(f) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro)[18] and General Assembly resolutions 48/210 of 21 December 1993, 49/21 A of 2 December 1994, 50/58 E of 12 December 1995 and 51/30 A of 5 December 1996;

(g) The 1994,[19] 1995,[20] 1996[21] and 1997[22] reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;

(h) The reports of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[23]

Taking note of the report of the Secretary-General submitted in accordance with General Assembly resolution 51/208 of 17 December 1996,[24]

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

Recalling also the measures taken by the Security Council in accordance with the statement by the President of the Security Council of 16 December 1994[25] that, as part of the Council's effort to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Stressing that, in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

---

[18] A/49/356, A/50/423 and A/51/356.

[19] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33 (A/49/33).

[20] Ibid., Fiftieth Session, Supplement No. 33 (A/50/33).

[21] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33).

[22] Ibid., Fifty-second Session, Supplement No. 33 and corrigendum (A/52/33 and Corr.1).

[23] A/50/361, A/51/317 and A/52/308.

[24] A/52/308.

[25] S/PRST/1994/81; see Official Records of the Security Council, Forty-ninth Year, Resolutions and Decisions of the Security Council, 1994, p. 132.

Stressing also, in this context, the powers of the Security Council under Chapter VII of the Charter and the Council's primary responsibility under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations that is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII has been causing special economic problems in third States and that it is necessary to intensify efforts to address those problems,

Recognizing also that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing further that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economy of those States,

Recalling the provisions of resolutions 50/51 of 11 December 1995 and 51/208 of 17 December 1996,

1. Renews its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected countries for assistance;

2. Welcomes once again the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 and aimed at increasing the effectiveness and transparency of the sanctions committees and invites the Council to implement those measures, and strongly recommends that the Council continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;

3. Requests the Secretary-General to pursue implementation of the provisions of General Assembly resolution 50/51 related to the possible guidelines that might be adopted on technical procedures to be used by the

appropriate parts of the Secretariat, and paragraphs 4, 5 and 6 of resolution 51/208, and to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to initiate action in order to explore innovative and practical measures of assistance to the affected third States;

4. Endorses the proposal of the Secretary-General that an ad hoc expert group meeting be convened in the first half of 1998 with a view to developing a possible methodology for assessing the consequences actually incurred by third States as a result of preventive or enforcement measures and in this connection requests that due regard be given by the expert group to the particular problems and needs of developing countries confronted by the special economic problems arising from carrying out enforcement measures and also endorses the recommendation of the Secretary-General that the expert group explore innovative and practical measures of assistance that could be provided by the relevant organizations both within and outside the United Nations system to the affected third States and requests the Secretary-General to submit a report on the results of the expert group meeting to the General Assembly at its fifty-third session;

5. Reaffirms the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

6. Invites the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

7. Requests the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 1998, to continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration all the related reports of the Secretary-

General,[26] the proposals submitted on this subject, the debate on this question which took place in the Sixth Committee at the fifty-second session of the General Assembly and the text on the question of sanctions imposed by the United Nations contained in annex II to General Assembly resolution 51/242, and also the implementation of the provisions of General Assembly resolutions 50/51 and 51/208 as well as the provisions of the present resolution;

8. Requests the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-third session.

DRAFT RESOLUTION III

Amendment to rule 103 of the rules of procedure of the General Assembly

The General Assembly,

Recalling its resolution 2837 (XXVI) of 17 December 1971, in particular paragraph 42 of its annex II entitled "Conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly", reproduced as annex V to the rules of procedure of the General Assembly,

Taking into account the increasing workload of the Main Committees of the General Assembly,

Considering that all regional groups should be represented in the Bureau of each of the Main Committees,

1. Decides to amend the first sentence of rule 103 of the rules of procedure of the General Assembly to read: "Each Main Committee shall elect a Chairman, three Vice-Chairmen and a Rapporteur";

2. Also decides that this amendment shall take effect as from the fifty-third session of the General Assembly.

---

[26] A/48/573-S/26705 (see Official Records of the Security Council, Forty-eighth Year, Supplement for October, November and December 1993), A/49/356, A/50/60-S/1995/1 (see Official Records of the Security Council, Fiftieth Year, Supplement for January, February and March 1995), A/50/361, A/50/423, A/51/317 and A/52/308.